

**Statement of
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U.S. Department of the Interior
Senate Energy & Natural Resources Committee
Subcommittee on Public Lands and Forests
S. 2466, the Southeast Arizona Land Exchange and Conservation Act of 2006
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Thank you for the opportunity to testify on S. 2466, the Southeast Arizona Land Exchange and Conservation Act. The legislation provides for the exchange of a 3,025-acre parcel of Forest Service-managed land in exchange for a number of private parcels, three of which are identified for transfer to the Bureau of Land Management (BLM). In general, we defer to the United States Forest Service on those issues directly related to Forest Service lands. We are supportive of the principal goals of S. 2466, but we would like the opportunity to work with the sponsor and the Committee on a number of modifications to the legislation.

It is our understanding that the intent of the legislation is to facilitate an exchange of land with Resolution Copper Mining. Resolution Copper has indicated its intention to explore the possibility of a very deep copper mine near Superior, Arizona, and wishes to acquire the 3,025-acre Forest Service parcel overlying the copper deposit as well as the subsurface rights.

The legislation provides for the exchange of a number of parcels of private land to the Federal government. We note that while the bill states that three of these parcels are to be transferred to the Secretary of the Interior, it is our understanding that the intention of the sponsors is for the parcels to be under BLM management. These parcels include:

- 3,073 acres along the Lower San Pedro River near Mammoth, Arizona;
- 956 acres adjacent to the Las Cienegas National Conservation Area (NCA), near Sonoita, Arizona; and,
- 160 acres within the Dripping Springs area, near Kearny, Arizona.

The lower San Pedro parcel is east of the town of Mammoth, Arizona, and straddles the San Pedro River. The acquisition of these lands would enhance a key migratory bird habitat along the San Pedro River, and we would welcome them into BLM management. However, we recommend a modification to the withdrawal language in section 7(b) of the legislation. Rather than a permanent withdrawal of this parcel, we recommend a withdrawal of the later of two years from the date of enactment or the completion of the BLM's land-management planning process. Generally, the Department believes it is most appropriate to leave determination of land withdrawals to an open, public land planning process.

Another parcel intended to be transferred to the BLM is the 956-acre parcel near the Appleton Ranch on the southern end of the Las Cienegas NCA. These lands lie within the "Sonoita Valley Acquisition Planning District" established by Public Law 106-538, which designated the Las Cienegas NCA. That law directs the Department of the Interior to acquire lands from willing sellers within the planning district for inclusion in the NCA to further protect the important resource values for which the NCA was designated. These particular lands provide bio-connectivity and expand a wildlife corridor stretching north through the NCA and beyond. We support this acquisition and would recommend only that the legislation be amended to make clear that these lands would become part of the Las Cienegas NCA upon acquisition and managed under the provisions of that Act.

For both of these acquisitions, we ask that the exchange language be clarified to make clear that all right, title and interest to these lands is to be conveyed to the Secretary of the Interior.

The final parcel presents several problems. The legislation proposes to transfer 160 acres in the Dripping Springs area northeast of Hayden to the BLM. The BLM is then directed in section 8(b) to transfer these 160 acres plus an additional approximately 2,000 acres to the Arizona State Parks Board (Board) for the purpose of a rock climbing area to replace a similar area currently managed by the Forest Service that is within the area to be transferred to Resolution Copper. The bill directs the transfer to Arizona State Parks at no cost within five years of the passage of the Act if requested by the Board.

The Department can support the transfer of the existing 2,000 acres to the State of Arizona. The vast majority of these lands were previously identified for disposal. However, we recommend that the legislation provide for an immediate transfer of these lands to the State. The BLM does not currently have the resources or staff to manage a rock climbing area to replace the existing one on Forest Service lands that would be taken over by Resolution Copper in this exchange. Therefore, since Dripping Springs has been designated as the replacement area, we urge its immediate transfer to the State so that appropriate management of the area can be arranged.

In addition, we do not believe that it is appropriate for the 160-acre parcel to be a part of the Federal exchange when the BLM will simply act as a pass-through for the State. Any arrangements between Arizona State Parks and Resolution Copper should be handled outside of the Federal exchange.

Finally, S. 2466 requires the BLM to construct a road to the new rock climbing area. The proposed road stretches over approximately six miles of rough terrain and, in addition to crossing BLM-managed land, also crosses state and private property. The legislation would require Resolution Copper to pay up to \$500,000 for the construction of the road. The BLM opposes the requirement that the Federal government build the road to a facility that, at least in the long run, will not be in Federal ownership. However, the BLM would be happy to provide a right-of-way over BLM-managed public lands to either the State or Resolution Copper to construct the new road.

Other issues requiring clarification include: timing of the exchange; appraisal-related provisions; and, the equalization of values provisions. Section 4(d) of the legislation requires that the exchange be completed within one year. Based on our experience with exchanges, we do not believe that this is sufficient time for the completion and review of a mineral report, completion and review of the appraisals, and final verification and preparation of title documents. Preparation of a mineral report is a crucial first step toward an appraisal of the Federal parcel because the report provides the foundation for an appraisal where the land is underlain by a mineral deposit. Accordingly, adequate information for the mineral report is essential. We recommend adding a provision requiring Resolution Copper to provide confidential access to the Secretaries of Agriculture and the Interior (and their representatives) to all exploration and development data and company analyses on the mineral deposits underlying the Federal land in order to ensure an accurate appraisal.

Sections 4 and 5 also provide that Resolution Copper will reimburse the Secretary of Agriculture for costs related to the exchanges and conveyances, including appraisals and all other reviews. It is important that the proponent of the exchange also reimburse the Secretary of the Interior for the Interior Department's related costs.

Section 5(b) discusses equalization of values of the Federal parcel and the non-Federal parcels. We believe that standard language on reducing acreage to achieve equalization of values should be included, as well as the typical Federal Land Policy and Management Act (FLPMA) restriction that no more than 25% of value be permitted in cash. In addition, should the value of the Federal land exceed the value of the non-Federal land, we would be open to consideration of additional parcels of land to be transferred to the Federal government, subject to the discretion of the Secretary. We also note further that the bill requires the Secretary of the Interior to make cash equalization payments "subject to the availability of funds" if the value of the non-Federal parcels exceeds the value of the Federal parcels. This provision would provide better certainty for the parties if it allowed for a reduction in the lands to be transferred to the Federal government instead of a payment from the Interior Department. Furthermore, the transactions between the Forest Service and the town of Superior should not be complicated by involving the

Secretary of the Interior. We would like the opportunity to work with the sponsor and the Committee on these and other technical concerns with sections 4 and 5.

Finally, we would like the opportunity to work with the sponsor and the Committee on miscellaneous technical items including maps for the areas to be exchanged. There are some minor errors on the maps and we prefer that, in the case of lands to be transferred to or from the Secretary of the Interior, the maps be completed by the BLM.

Thank you for the opportunity to testify, I will be happy to answer any questions.